

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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Petition of)	
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IRIDIUM COMMUNICATIONS, INC.)	WT Docket No. 19-280
)	
For Waiver to Permit Use of Iridium Service))	
to Meet GMDSS Requirements)	
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COMMENTS OF INMARSAT, INC.

Inmarsat, Inc. (“Inmarsat”) hereby comments on Iridium Communications, Inc.’s (“Iridium”) petition for waiver (“Petition”) in the above-captioned proceeding.¹

As Inmarsat explained in its comments on the pending petition for rulemaking filed by RTCM in 2016, Inmarsat welcomes steps to improve and modernize the rules governing maritime services, provided those services retain the reliability and availability maritime users depend upon. Inmarsat supports the entry of new, qualified GMDSS service providers, and the expeditious issuance of a Notice of Proposed Rulemaking (“NPRM”) based on the RTCM petition.²

Because GMDSS is a safety-of-life service, with operator and equipment standards and procedures that must be executed with precision, the objectives sought by Iridium, to which Inmarsat does not object, are appropriately accomplished through a rulemaking proceeding and not through a waiver request. If, nevertheless, the Commission grants the request in whole or in

¹ See Public Notice, Wireless Telecommunications Bureau Seeks Comment on Iridium Communications Inc. Petition for Waiver to Permit Use of Iridium Service to Meet GMDSS Requirements, DA 19-995 (Oct. 3, 2019) (“Public Notice”).

² Comments of Inmarsat in Docket RM-11765, Radio Technical Commission for Maritime Services Petition for Rulemaking to Update Part 80 of the Commission’s Rules (May 31, 2016).

part, it should expeditiously proceed with a rulemaking proceeding as sought by RTCM, and should require Iridium to meet certain conditions to ensure the continued stability and reliability of GMDSS services.

DISCUSSION

I. REVISIONS TO THE PART 80 RULES ARE BEST PURSUED THROUGH RULEMAKING, NOT WAIVER.

The Commission may waive any provision of its rules “if good cause therefor is shown.”³ The Commission “may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.”⁴ It is well established that the Commission will waive its rules in specific cases only if it determines, after careful consideration of all pertinent factors, that such a grant would serve the public interest without undermining the policy which the rule in question is intended to serve.⁵

There is a further requirement for exemptions from compliance with GMDSS rules, which is explicitly found in Section 80.1071:

- (a) In certain circumstances, partial or conditional exemptions may be granted to individual ships from the requirements of §§80.1085, 80.1087, 80.1089, 80.1091, and 80.1093 provided: such ships comply with the functional requirements of §80.1081 and a showing is made that such an exemption will not have a material effect upon the general efficiency of the service for the safety of all ships.
- (b) An exemption may be granted under paragraph (a) of this section only:
 - (1) If the conditions affecting safety are such as to render the full application of §§80.1085, 80.1087, 80.1089, 80.1091, and 80.1093 unreasonable or unnecessary or otherwise not in the public interest;

³ 47 C.F.R. § 1.3.

⁴ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*WAIT Radio*).

⁵ *See WAIT Radio*, 418 F.2d at 1157.

- (2) In exceptional circumstances, for a single voyage outside the sea area or sea areas for which the ship is equipped.⁶

A. Waiver Inherently Undermines the Policy of the GMDSS Rules and is not the Appropriate Vehicle for Iridium to Seek Approval of GMDSS Equipment Under Part 80.

GMDSS is a safety-of-life service, which means that it needs a stable, predictable regulatory framework that promotes accountability and reliability. Waiver is a blunt instrument that will exceed the bounds of exemption permitted by Section 80.1071 and will not serve these goals. The public interest concerns in favor of sustaining this safety service outweigh any timing-based or convenience-based considerations that might justify a waiver.

A waiver will not create a framework that would allow for additional GMDSS operators in the future. The work done at IMO, IMSO, and ITU is intended to make the GMDSS a provider-neutral system that might allow additional competitors to enter the market, provided they can meet the service requirements of the safety service. Rather than moving to this sustainable framework, moving forward with a waiver would only incrementally change the GMDSS to a system with Inmarsat and Iridium given special treatment over other operators.

The Part 80 rules that need revision are too numerous and complex to be dealt with through waiver. Iridium's Petition identifies 17 individual sections of the FCC's rules for which it seeks blanket waiver. Part 80 is a complex system of interconnected rules intended to provide a framework for reliable safety communications. While waiver of individual rules often is appropriate in extraordinary situations, a situation of this complexity warrants a full and careful review that can only be performed in the context of a rulemaking.

⁶ 47 CFR § 80.1071.

B. The Commission Already has a Better Vehicle to Move Forward with GMDSS Modernization through Rulemaking.

As Iridium recognizes in its Petition, RTCM filed a Petition for Rulemaking in 2016 seeking a variety of changes to the Part 80 rules that would allow for new entrants to the GMDSS market. Inmarsat supported moving forward with a rulemaking process at that time, and it remains supportive of this approach.

A rulemaking on Part 80 is the appropriate vehicle to consider rule changes of this level of importance. It will be the most transparent process that will allow participation from the broadest range of stakeholders. Further, if the FCC is eventually going to update the Part 80 rules to allow entry of new GMDSS providers, it will have to proceed with the rulemaking anyway, and RTCM has already indicated how the objectives sought by Iridium may be addressed by rule changes. As a matter of administrative efficiency, and to prevent proliferation of confusing or inconsistent regulatory regimes, the FCC should move directly to the rulemaking here, and not go down the path of waiver first.

Further, there are segments of the GMDSS and broader maritime communications rules that are ripe for updating that Iridium does not adequately address in its Petition, either by omitting them entirely or by seeking relief that is not narrowly tailored. For example, and without limitation:

- The definition of INMARSAT in Section 80.5 refers to a corporate form (Inmarsat, Ltd.) that is not presently correct and may further change in the future.
- GMDSS operators are required to carry operator licenses⁷ and pass examinations on GMDSS equipment and procedures.⁸ These examinations are required to “prove that the examinee possesses the operational and technical qualifications to perform the duties required by a person holding that class of commercial radio operator license.”⁹ The examination syllabus and question pool should be updated to ensure that newly

⁷ 47 CFR § 80.1073.

⁸ 47 CFR § 13.201.

⁹ 47 CFR § 13.203(a).

licensed GMDSS operators are aware of all systems used within GMDSS when they sit for their examination.

- With respect to Section 80.1101, Iridium seeks a broad waiver of equipment performance standards that are fundamental to reliable and robust GMDSS performance. The portion of this rule that refers to Inmarsat equipment contains a standard upon which Inmarsat and its customers rely, and the reflection of that standard in the regulation is indicative of its fundamental importance for customers who choose to operate Inmarsat equipment. Rather than waive application of the Inmarsat performance standard, Iridium should seek to *include* the performance standard for its own equipment once it clears all appropriate processes.

These rule provisions are representative of the many interconnected rules that are aimed at ensuring the capabilities and precision of execution required to achieve the necessary reliability for safety-of-life services. An efficient and comprehensive effort to avoid conflicting rules requires a full rulemaking proceeding, not an ad hoc response to waiver requests each time a new GMDSS provider enters the market. The Commission has before it an appropriate vehicle to conduct such a review (the RTCM Petition for Rulemaking), and should expeditiously proceed with a rulemaking to ensure that all GMDSS providers, both established and new, will meet the requirements for maritime safety.

II. IF THE FCC NEVERTHELESS PROCEEDS WITH A WAIVER, APPROPRIATE CONDITIONS SHOULD BE APPLIED TO ENSURE THE CONTINUED STABILITY AND RELIABILITY OF GMDSS.

Inmarsat recognizes that new providers of GMDSS services will enter the market and does not oppose their entry at an appropriate time. While Inmarsat believes that a rulemaking proceeding is a more appropriate vehicle to achieve this, if the Commission were to proceed with a waiver, it must grant the waiver with appropriate conditions to ensure that GMDSS users will receive the necessary services in case of need.

Specifically, while IMO has recognized specific Iridium services for use within GMDSS,¹⁰ IMO has also determined that “oversight of future satellite service providers in the GMDSS should be undertaken by the International Mobile Satellite Organization (IMSO).”¹¹ As of this date, IMSO has not issued Iridium the necessary Letter of Compliance,¹² and the Commission should require this issuance before granting the waiver.

Further, as RTCM has observed in comments already filed in this proceeding,¹³ the International Electrotechnical Commission (“IEC”) has recently published new standards for ship earth stations operating in the GMDSS.¹⁴ If a waiver of Section 80.1101 is granted, it should be conditioned upon compliance with the newly established IEC standards, as RTCM points out.¹⁵

¹⁰ See Recognition of Maritime Mobile Satellite Services Provided by Iridium Satellite LLC., Int’l Mar. Org. – Maritime Safety Committee, Res. MSC.451(99) (adopted May 24, 2018), available at https://www.register-iri.com/wpcontent/uploads/MSC_Resolution_45199.pdf.

¹¹ *Id.*

¹² See IMSO Press Release, “IMSO signs public services agreement with Iridium”, Mar. 12, 2019, available at <https://imso.org/2019/03/12/imso-signs-public-services-agreement-with-iridium/> (“The [public services] agreement will enter into force upon the issuance of the Letter of Compliance to Iridium in due course.”)

¹³ Comments of Radio Technical Commission for Maritime Services, dated October 18, 2019 (“RTCM Comments”), ¶5.

¹⁴ IEC 61097-16, *Global Maritime Distress and Safety System (GMDSS) – Part 16: Ship earth stations operating in mobile satellite systems recognized for use in the GMDSS – Operational and performance requirements, methods of testing and required test results* (available for purchase from ANSI or IEC at <https://www.ansi.org> and <https://www.iec.ch> respectively).

¹⁵ RTCM Comments ¶7.

CONCLUSION

Inmarsat welcomes new entrants to GMDSS, including Iridium, so long as the safety-of-life services provided through GMDSS retain sufficient reliability. An expeditious rulemaking, not a waiver, is the appropriate vehicle to achieve Iridium's entry consistent with this goal. If the Commission nevertheless proceeds with a waiver, it should apply appropriate conditions as described above.

Respectfully submitted,

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